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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,365	10/17/2003	Andrew Thomas Forsberg	47563.0013	2302

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EXAMINER

DAWSON, GLENN K

ART UNIT	PAPER NUMBER
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3731

MAIL DATE	DELIVERY MODE
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10/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/688,365

Applicant(s)

FORSBERG, ANDREW THOMAS

Examiner

Glenn K. Dawson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 10-17, 19-52, 54-62 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 18 and 53 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>04-16-2004</u> | 6) <input type="checkbox"/> Other: ____ |

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3-5,8,19,20,38,40,42-52,54-56 and 59 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwartz, et al.-6293961.

Schwartz discloses a suture locking device including an outer housing 20,22,60,70 and a suture locking mechanism, a plurality of posts 24,26; 26,28; 36, wherein a suture threaded through the housing is engaged with the posts to make the suture go from straight through to alter its path to a more tortured one with increased frictional resistance. See fig. 5-10 and accompanying description. The material of the locking assembly is bioabsorbable.

Claims 1,2,10-17,19,20,38-41,43-48,50-52 and 55 are rejected under 35 U.S.C. 102(b) as being anticipated by Goble, et al.-5702397.

Goble discloses a suture locking device having a housing 80 having various internal suture locking devices, ones which rotate the engage the suture and cause it to attain a more tortuous path through the housing; ones which pinch the suture against the inner housing wall, ones which have a locking post which lock against the suture; the housing has a tapered internal section. See fig. 2,18,21 and 26, and accompanying description.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 7 and 60-62 are rejected as being obvious under 35 U.S.C. 103(a) as being unpatentable over Schwartz, et al. in view of applicant's own disclosure. Schwartz discloses the invention as claimed with the exception of the textures surface on the post, and the tamping tube. As it was known at the time of the invention to texturize a surface to increase its frictional qualities, it would have been obvious to have the posts with a serrated or roughened surface in order to increase the friction between the suture and the post. The applicant has admitted that the use of a tamping tube was previously known; therefore to have used one in conjunction with the prior art suture locking

devices would have been an obvious design choice in order to only grasp the suture when desired.

Claims 3-5,8,42,49,54,59 and 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goble, et al.-5702397 in view of Schwartz and applicant's disclosure.

Goble discloses the invention as claimed with the exception of the plurality of locking posts; the bioresorbable material, and the tamping tube. Providing a plurality of posts instead of one is merely an obvious duplication of known parts. Additionally, Schwartz teaches of providing a plurality of locking posts (col. 5 lines 46-59). Schwartz also discloses making the locking device bioresorbable. It would have been obvious to have made the suture lock bioresorbable in order to eliminate the need for a future surgical procedure to remove the lock. The applicant has admitted that the use of a tamping tube was previously known; therefore to have used one in conjunction with the prior art suture locking devices would have been an obvious design choice in order to only grasp the suture when desired.

Claims 1-5,7,8,10-17,19-52 and 54-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans, et al.-5549633 in view of Schwartz, et al.-'961 and Goble, et al.-'397.

Evans discloses a suture-locking device used in conjunction with a collagen plug to seal a tissue puncture. However, the specifically claimed structure of the suture locking assembly is not disclosed. However, as shown above, Schwartz and Goble both teach various suture locking devices. It would have been obvious to have used any of

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the various suture locking devices disclosed by Schwartz and Goble instead of that disclosed by Evans, as merely an obvious alternative suture locking device capable of performing the same task in the same manner as Evans's.

Allowable Subject Matter

Claims 6,9,18 and 53 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn K. Dawson whose telephone number is 571-272-4694. The examiner can normally be reached on M-Th 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Glenn K Dawson
Primary Examiner
Art Unit 3731

Gkd
01 October 2007